



Appeal Decision

Site visit made on 3 April 2024

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2024

Appeal Ref: APP/M2270/W/22/3312245

**Sissinghurst Court, Sissinghurst Road, Sissinghurst, Cranbrook, Kent
TN17 2JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Neil and Fiona Morgan against Tunbridge Wells Borough Council.
 - The application Ref is 22/02388/FULL.
 - The development proposed is replacement of Gardener's Cottage at Sissinghurst Court.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of Gardener's Cottage at Sissinghurst Court, Sissinghurst Road, Sissinghurst, Cranbrook, Kent TN17 2JA in accordance with the terms of the application Ref 22/02388/FULL and subject to the conditions in the attached schedule.

Preliminary Matters

Validation

2. The Council has declined to validate the application¹ because it has been submitted as a householder application rather than a full application, the Council considering the proposed development to be a separate dwelling. Other relevant points of difference between these two forms of application include the fee, and whether a curtilage should be defined around the proposed building.
3. The appellant disagrees with the Council, arguing that as the intention is to use the building for staff accommodation or as additional living accommodation for members of the same family who occupy the main house, it would not be a separate dwelling and, in effect, should be viewed as ancillary residential accommodation.
4. The proposed building would have all the facilities to operate as a separate dwelling. However, its stated use is for purposes ancillary to that of the main house. Notwithstanding the building being referred to variously as a 'cottage' or 'dwelling' in the application and appeal documents, in the absence of any reason to believe that the intended use is not genuine, the application should be considered on its face. I understand the Council's concerns about the potential for the building to be used as a separate dwelling in the future, but that is essentially a planning matter for consideration as part of the assessment of the scheme rather than a matter to be determined at the validation stage.

¹ Emails dated 30 September 2022 @ 16:38 and 16:45

5. For the purposes of this proposal, I have therefore taken the proposal to be for residential purposes ancillary to that of the main house at Sissinghurst Court as a single planning unit, rather than a separate dwelling. As such, it can be considered a form of householder development and the application is valid.
6. Since the appeal has been lodged, the Council has carried out all necessary notifications and has had the opportunity to comment on the planning merits of the case. I am satisfied that I am able to determine the appeal without prejudice to any interested parties.

Other preliminary matters

7. I have taken the description of the development from the application form. The Council describes it somewhat differently on its non-validation notice as '*Demolition of existing gardener's cottage, erection of replacement two storey cottage*'.
8. The development proposed would require demolition of the existing building on the site. Although it is not a matter for me to determine as part of this appeal, I draw attention to the advice of the Council that such demolition is likely to require separate listed building consent².
9. Areas of Outstanding Natural Beauty have recently been renamed as National Landscapes. I have used the new naming convention in this decision.
10. The National Planning Policy Framework (the Framework) has been revised since submission of the appeal. Other than for changes to the paragraph numbers, national policies relating to the countryside and heritage assets remain the same. I have used the new paragraph numbers when referring to the Framework.

Main Issues

11. The main issues are the effect of the proposal on:
 - the character and appearance of the countryside.
 - the setting of the grade II listed Sissinghurst Court³, its grade II registered park and garden⁴, or any features of special architectural or historic interest that they possess.

Reasons

Countryside

12. The site lies outside the limits to built development as shown on the Tunbridge Wells Borough Proposals Map and is consequently defined as being in the countryside. In the countryside, Policy H11 of the Tunbridge Wells Borough Local Plan 2006 (the Local Plan) permits additional ancillary buildings within the curtilage of the original building provided certain criteria are met. The criteria relevant to this appeal are that the additional building should be modest and in scale with the original dwelling, and should not lend itself to future sub-division to form a separate dwelling.

² Council's statement of case, paragraph 31

³ List Entry Number: 1067750

⁴ List Entry Number: 1000941

13. Sissinghurst Court is a large country house set within extensive grounds. Although the proposed building may be considered large for an ancillary domestic building in most situations, when compared to the size of the main house and grounds, accommodation for 2 staff members to act as housekeeper and gardener does not appear excessive. It does therefore fall to be considered as modest and in scale with the original dwelling (which for the purposes of the policy is the house as it existed in 1948).
14. The building would have the potential to be used as a dwelling separate from the main house. That potential arises from it containing all the necessary facilities for independent occupation, as well as an area around it for use as a garden and parking, and an access to the road separate from that to the main house. However, that would be similar to the current situation, where the existing building on the site has all the facilities necessary for separate living, and which in the past has been permitted to be used as ancillary staff accommodation. Its current lawful use is as a separate dwellinghouse⁵. The proposal, which is to revert to use as ancillary accommodation to the main dwelling, would therefore be more in accordance with the policy than the current lawful use.
15. The appellant is willing to accept a condition restricting the use of the building to ancillary accommodation, either for staff or for members of the same family as those occupying the main house. The Council expresses concern that such a restriction is unlikely to be appropriate, but I see no reason why that should be the case. Occupancy restrictions, where justified for planning reasons, can be imposed, as was the case with the existing building. Since the existing building is already in residential use, concerns around the sustainability of the location and its distance to local services carry little weight, as there would be little change to the current situation.
16. Policy EN25 of the Local Plan requires, amongst other criteria, that where built development is proposed, there is no other existing building or structure suitable to provide the required facilities. The existing building is very small and I accept that it could not accommodate 2 staff members easily. Having seen the building, I could also see that it was suffering from damp. While it is possible that could be remedied, I accept the appellant's argument that it would be difficult to bring it up to modern living standards. There are other outbuildings on the estate including an ancillary barn, and permission has been granted for a replacement garage and pool room. However, these buildings are either already in use or intended for other purposes, and I have been provided with no evidence that they are either capable or available to provide the required staff facilities.
17. The countryside in the vicinity of the site is characterised by a patchwork of arable and pasture fields, orchards and small woodlands. Interspersed amongst these fields are a loose scatter of houses extending from the built up part of the village. The site is largely screened from outside views by a fence, hedge and trees. Filtered views of the roof of the proposed building would be gained from the road and a public byway that runs along the side of the property, but would be seen in combination with the barn as an outbuilding in the residential grounds of the main house. The proposal would therefore have little impact on the character or appearance of the countryside.

⁵ 10/03511/CEU: certificate of existing lawful development – use as a single dwellinghouse – granted 2012

18. The site lies adjacent to the High Weald National Landscape boundary. For the same reasons to those outlined above, the proposal would have no appreciable impact on its landscape qualities.
19. I conclude that the proposal would not harm the character or appearance of the countryside, and would therefore accord with Policies LBD1, EN1, EN25 of the Local Plan and Core Policies 4, 5 and 14 of the Tunbridge Wells Core Strategy 2010 (the Core Strategy), which together seek to protect the countryside for its own sake and maintain its landscape character. While I acknowledge that the proposed building has the potential for sub-division as a separate dwellinghouse, that is already the case with the existing building. The proposal, which is to revert to ancillary accommodation, would be an improvement in policy terms, and can be secured by condition. I therefore conclude that the proposed development would also accord with Policy H11 of the Local Plan.

Listed building

20. Sissinghurst Court is a grade II listed country house set in extensive grounds, part of which is registered as a historic park and garden. Its significance lies in the 17th century (C17) timber framed portion of the building, which was extended and remodelled in the 1920s to form a much larger country house. The historic timber framed portion now forms a relatively small part of the house in the south west corner. Features noted in the list description or listed in their own right include the entrance wall and a grade II garden pavilion to the south.
21. The grade II registered park and garden occupies the western part of the current grounds, including the area subject of this appeal. Its special interest lies in the formal gardens laid out in the 1930s to the south and south east of the main house. These form a series of compartments defined by hedges and containing herbaceous borders, beds and garden pools, as well as the listed garden pavilion which forms a focal point at the end of a path.
22. The northern part of the garden is more functional in appearance, containing the drive and outbuildings serving the main house, and an ancillary parking area. The entrance to the property has changed since the garden was registered with a new drive approaching the main house from the east. The original entrance now only serves the ancillary outbuildings, which are fenced off from the gardens around the main house.
23. The building that is proposed to be demolished is of a simple rectangular plan in brick with a hipped, tiled roof. A small, gable roofed extension has been added at the rear. From the mapping information and the appearance of the building, it is likely to be of Victorian date.
24. The structure is of little historic or architectural interest in itself, and does not aid in understanding the significance of the listed building, either in terms of the C17 timber frame or the 1920s extension and remodelling. It does have some interest as an ancillary building associated with the former farm holding and later the upkeep of the registered garden, although is not contemporary with the formal gardens nor is it included among those features which are noted as being of historic or architectural interest. As such, and using the categorisation adopted in the Framework, its removal may be considered to lead to less than substantial harm to the history of the site and significance of

the registered park and garden, although very much towards the lower end of that scale.

25. While it would be removed in its entirety, it would not result in substantial harm to (or total loss of significance of) the designated heritage assets. Protection of the building through it being a curtilage listed building does not elevate it to the same significance or special interest that applies to the listed building or the registered park and garden.
26. I have already concluded that the replacement building would be modest and in scale with the much larger main house. It would be sited some distance from the listed building such that it would not interrupt views of it, notwithstanding the increase in height. Nor would it detract from the formal gardens to the south of the main house. Subject to it remaining as ancillary accommodation to the main house, it would also not result in the subdivision of the curtilage or, importantly, the registered park and garden. I consider that the proposed building would therefore not be harmful to the significance of the heritage assets.
27. While the replacement building would not cause any harm, less than significant harm would arise from the loss of the existing building. Applying the policy in paragraph 208 of the Framework, that harm needs to be weighed against the public benefits of the proposal.
28. In this case, the provision of additional ancillary living accommodation for staff or family is largely a private rather than a public interest, and I therefore give it only limited weight. However, a benefit of the development would be to ensure that it remained ancillary to the main house and that the land around it remained as part of the wider garden. Retaining the functional link between the proposal and the main house and grounds would be of public benefit, by helping to retain the heritage assets in one ownership, a benefit recognised by The Gardens Trust⁶. I consider that public benefit to outweigh the limited harm arising from demolition of the existing outbuilding.
29. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special regard be paid to preserving the listed building and registered park and garden, or any features of historic or architectural interest that they possess. I conclude that the proposed building would not harm the setting of the listed building or the registered park and garden, and while demolition of the existing building would cause less than substantial harm, that harm would be outweighed for the reason given above. For the same reasons, I conclude that the proposal would accord with Policies LBD1, EN1 and EN11 of the Local Plan and Core Policy 4 of the Core Strategy, which amongst other criteria seek to protect heritage assets in the borough.

Conditions

30. I have imposed the conditions suggested by the Council, subject to minor rewording in the interests of conciseness and simplicity.
31. Conditions relating to a time limit and listing the approved plans are necessary in the interests of certainty. A condition restricting occupation of the building is necessary to ensure that it remains ancillary to the main dwelling and the garden to ensure those heritage assets remain as a functional whole and in

⁶ Consultation response from The Gardens Trust, 25 October 2023

accordance with policies restricting new development in the countryside. A condition requiring approval of details and materials of the building is necessary in the interests of its appearance and relationship with the heritage assets.

32. A condition requiring recording of the building to be demolished is necessary in the interests of the history of the site. A condition preventing demolition of the existing building until arrangements have been put in place for the replacement building is necessary to prevent harm being caused to the heritage assets without any corresponding public benefit.

Conclusion

33. Subject to a condition restricting the use of the proposed building to purposes ancillary to the main dwelling, the proposed development would accord with relevant planning policies and would therefore accord with the development plan when taken as a whole. There are no material considerations that indicate my decision should be other than in accordance with the development plan. Consequently, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Schedule of 6 conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Location plan, Feb 1996
Site plan, drawing 403
Proposed plans and site location plan, drawing 401 Rev E
Existing plans and proposed block plan, drawing 402 Rev E
3. The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Sissinghurst Court, Sissinghurst Road, Sissinghurst, Cranbrook, Kent TN17 2JA, such ancillary use to include family members and/or staff members solely or mainly employed in maintaining the said dwelling or its grounds, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
4. Notwithstanding the approved drawings, before commencement of development above foundation level, the following details shall be submitted to and approved in writing by the local planning authority:
 - a) sections at a scale of 1:5 or 1:10 showing details of the proposed eaves, ridge and verge construction
 - b) sections and elevations to a scale of 1:5 or 1:10 of the joinery
 - c) type and source of the roof tile
 - d) material, dimensions, profile and finish of the weatherboardingThe development shall be carried out in accordance with the approved details.

5. No demolition shall take place until a detailed record of the building to be demolished, including internal and external photographs and measurements, has been completed and a copy of the record has been submitted to and approved in writing by the local planning authority.
6. No demolition shall take place until a contract has been awarded for the construction of the replacement building hereby permitted and details of the contract and a schedule for its implementation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved contract.

***** End of conditions *****